

आयकर अपीलीय अधिकरण] पुणे न्यायपीठ "ए" पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT.
AND SHRI VIKAS AWASTHY, JM

ITA No.1082/PUN/2016
Assessment Year : 2011-12

Shri Sagar Popat Suke,Appellant.
725, Punyai Nagar,
Dhankawadi,
Pune – 411 043.

PAN : BBNPS7846H.

बनाम v/s

The Addl.Commissioner of Income Tax, ..Respondent.
Range – II, Pune.

ITA No.1083/PUN/2016
Assessment Year : 2011-12

Mrs. Sunanda Popat Suke,Appellant.
725, Punyai Nagar,
Dhankawadi,
Pune – 411 043.

PAN : ASBPS6780N.

बनाम v/s

The Addl.Commissioner of Income Tax, ..Respondent.
Range – II, Pune.

Assessee by : Shri Rohit Biyani.

Revenue by : Shri Ashok Babu, JCIT.

सुनवाई की तारीख / Date of Hearing : 14.01.2019	घोषणा की तारीख / Date of Pronouncement: 15.01.2019.
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आदेश / ORDER

PER VIKAS AWASTHY, JM :

These two appeals by two different assesseees are directed
against the order of Commissioner of Income Tax (Appeals) – 2, Pune

confirming levy of penalty u/s 271D of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for A.Y. 2011-12 in their respective cases. Both the impugned orders are dated 04.01.2016.

2. Since the issues raised in both the appeals are identical and are arising from similar set of facts, both the appeals are taken up together for adjudication and are disposed off vide this common order.

3. Shri Rohit Biyani appearing on behalf of the assessee submitted that by way of these two appeals, assessee has assailed ex-parte orders of Commissioner of Income Tax (Appeals) in confirming the levy of penalty u/s 271D of the I.T. Act. The CIT(A) has violated the principles of natural justice by deciding the appeals at the back of the appellants/assessee.

4. Shri Ashok Babu representing the Department vehemently defended the order of Commissioner of Income Tax (Appeals) in confirming the levy of penalty. The ld.D.R. submitted that the CIT(A) had issued notice of hearing of the appeals to the assessee before adjudicating the appeals.

5. We have heard the submissions made by representatives of rival sides and have perused the orders of authorities below. A perusal of the impugned orders reveal that notice of the appeals were sent to the assessee, however it is not emanating from the orders whether the notices were duly served on the assessee or not. It is a

well settled principle of natural justice that sufficient opportunity of hearing should be afforded to the parties and no party should be condemned unheard. Since, both the impugned orders have been passed in the absence of respective assesseees or their Authorised Representatives, we deem it appropriate to restore these appeals back to the file of CIT(A). The Ld.CIT(A) shall decide the appeals of assesseees afresh after affording sufficient opportunity of hearing to the assesseees, in accordance with the law.

6. The assesseees are also directed to appear before the CIT(A) on receiving notice of hearing of the appeals and co-operate in the first appellate proceedings. The impugned orders are set aside and the appeals of the assesseees are allowed for statistical purpose.

7. In the result, both the appeals of assesseees are allowed for statistical purposes.

Order pronounced on Tuesday, the 15th day of January, 2019.

Sd/-
(R.S. SYAL)
VICE PRESIDENT

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 15th January, 2019.

Yamini

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. CIT(A)-2, Pune.
4. Pr. CIT-2, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" / DR,
ITAT, "A" Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER

// True Copy //

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune.